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C O N F I D E N T I A L STATE 125628

SIPDIS

E.O. 12958: DECL: 11/25/2018
TAGS: PARM NATO PREL MOPS CA
SUBJECT: DEMARCHE TO CANADA REGARDING CONVENTION ON
CLUSTER MUNITIONS

REF: A. STATE 125608
1B. STATE 125512

Classified By: PM A/S Mark T. Kimmitt for Reasons: 1.4(b),(d)

11. (U) This is an action request; see para 3.

12. (C) Summary: On December 3, the Convention on Cluster Munitions (CCM) will be opened for signature in Oslo, Norway. The United States will neither sign the CCM nor participate as an observer, although many of our allies and partners will sign this Convention. Depending on implementation of the CCM, in particular interpretation of Article 21, which preserves interoperability, this could cause constraints on the ability of U.S. military forces to undertake combined operations with the militaries of States Parties to the CCM. Canada will sign this Convention. Canadian and U.S. military forces undertake many cooperative initiatives, encompassing planning, training, and operations, and Canadian officers (like those from Australia and the UK) are routinely provided the opportunity to serve within U.S. military units. Canada has not approached the U.S. to explain Canadian intentions for implementing the CCM. The Canadian Head of Delegation to the CCW made several public comments unhelpful to that process, and although nothing specific was said, the general tone gave rise to concerns that Canada may embrace a narrow interpretation of Article 21 and make an announcement to that effect at the signing on December 3. End Summary.

OBJECTIVES

13. (C/REL CAN) If Canada embraces a narrow interpretation of Article 21, it could result in serious consequences for U.S. military operations and planning. Please pursue the following objectives with host nation government to confirm Canada's interpretation of Article 21 will permit continued interoperability in combined operations. Post may draw on more detailed information on CCM and U.S. policy in reftels and background below for these discussions.

-- Convey that the United States shares Canada's concerns about the potential unintended harm to civilians cluster munitions can cause.

-- Explain the United States is not in a position to sign the CCM at this time because of defense requirements and far-ranging security commitments, but the U.S. is taking technical steps to reduce the potential unintended harm to civilians from the use of cluster

munitions.

-- Note U.S. appreciation for the inclusion of Article 21 in the CCM text. Convey that we interpret this provision to allow our respective military forces to continue to conduct a broad range of combined operations where cluster munitions might be used. Note that the NATO Military Committee advice of October 2 confirms that interoperability is protected.

-- Request information about host government's intentions regarding the many forms of ongoing military cooperation between U.S. and Canada, both in NATO and bilaterally, including training, planning, operations, and embedded officers, in light of Canadian signature to the CCM.

-- Note if host government has serious concerns on this issue, an interagency team of experts is prepared to hold bilateral consultations with Canada.

-- Encourage Canada to take no action that would complicate maintaining maximum flexibility in coming to an understanding on this very important issue.

¶4. (SBU) Background: On December 3, the CCM will be open for signature in Oslo, Norway. Canada intends to sign this Convention. Unlike Australia and the UK, Canadian officials have not approached the U.S. to explain Canada's interpretation of Article 21 of the CCM or how it could potentially impact security cooperation activities.

The Department has information that the Canadian Head of Delegation to the CCW (who played an unhelpful role in CCW negotiations) is lobbying his government to adopt a narrow interpretation of Article 21, while Canadian military legal advice favors a broad interpretation. Both Australia and the UK have taken a broad view of Article 21, and nearly the full range of activities will be permitted with those countries' militaries.

¶5. (U) For more information please contact Katherine Baker (202-663-0104) or Sho Morimoto (202-663-0290) in PM/WRA.

RICE